



TEXAS DEPARTMENT OF INSURANCE

Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

COMFORT REHAB, PA

Respondent Name

AMERICAN CASUALTY CO OF READING PA

MFDR Tracking Number

M4-13-1399

Carrier's Austin Representative

Box Number 47

MFDR Date Received

FEBRUARY 4, 2013

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "We are asking you to review these bills and records we have sent two reconsideration to the insurance and they are still being denied. The first denial for these dates were because the diagnosis codes were incorrect, so we corrected the bills and the second denial was based on the diagnosis arrows went to still 4 diagnosis when there were only 2 diagnosis, it was a mistake on from our billing system and was recently fixed. We explained that to the adjuster but she said the only way for the bills were to be resolved would be the medical fee dispute resolution."

Amount in Dispute: \$29,247.00

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "Legal Authority for Dismissal based on unadjudicated extent of injury dispute."

Response Submitted By: Law Offices of Brian J. Judis

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
June 29, 2012 through July 17, 2012	CPT Codes 99212, 97110 and 97530	\$3,019.00	\$7,005.83
August 6, 2012 through August 20, 2012	CPT Codes 99212, 97110 and 97530	\$3,629.00	
August 27, 2012 through September 5, 2012	CPT Codes 99212, 97110 and 97530	\$2,398.00	
August 23, 2012	CPT Code 99213	\$109.00	\$0.00
July 23, 2012 through	CPT Codes 99212, 97110 and 97530	\$1,429.00	\$0.00

July 30, 2012			
July 31, 2012	CPT Codes 97140, 93799, 97112, 97750, 95381, and 95999	\$1,249.00	\$0.00
August 1, 2012 through August 2, 2012	CPT Codes 99212, 97110 and 97530	\$920.00	\$0.00
September 10, 2012	CPT Codes 97140, 93799, 97112, 97750, 95381, and 95999	\$849.00	\$0.00
September 13, 2012 through September 24, 2012	CPT Codes 99212, 97110 and 97530	\$2,398.00	\$0.00
September 25, 2012	CPT Codes 97140, 93799, 97112, 97750, 95381, and 95999	\$849.00	\$0.00
September 28, 2012 through October 2, 2012	CPT Codes 99212, 97110 and 97530	\$1,380.00	\$0.00
October 3, 2012	CPT Codes 99456 (X3)	\$650.00	\$0.00
October 9, 2012	CPT Codes 99213 and 98940	\$154.00	\$109.00
July 20, 2012	CPT Code 72146 and 72148	\$5,000.00	\$1,421.93
September 20, 2012	CPT Code 99213	\$109.00	\$0.00
September 6, 2012	CPT Code 62273, J1040, J2001, A4930, 99499, A4215, J7120, J3301, A4550, 64493 and 64494	\$5,365.00	\$0.00
TOTAL		\$29, 247.00	\$8,536.76

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.305 sets out the general Medical Dispute Resolution guidelines.
2. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
3. 28 Texas Administrative Code §133.308 sets out the procedure for Medical Dispute Resolution of Medical Necessity Disputes.
4. 28 Texas Administrative Code §141.1. sets out the process for resolving extent of injury disputes.
5. 28 Texas Administrative Code §134.203, effective March 1, 2008, sets out the reimbursement guidelines for professional services.
6. 28 Texas Administrative Code §134.204, effective March 1, 2008, sets the reimbursement guidelines for Division specific services.
7. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
 - 219-Based on extent of injury.

Issues

1. Did the medical fee dispute referenced above contain information/documentation that indicates that there are **unresolved** issues of medical necessity and extent of injury? Are the disputed services eligible for review by Medical Fee Dispute Resolution?

2. Is the requestor entitled to reimbursement for services?

Findings

1. The insurance carrier denied reimbursement for disputed services rendered on July 23, July 24, July 30, July 31, August 1, August 2, August 23, September 6, September 10, September 13, September 17, September 18, September 19, September 20, September 24, September 25, September 28, October 1, and October 2, 2012 with claim adjustment reason code "219."

28 Texas Administrative Code §133.305(b) requires that extent-of-injury disputes be resolved prior to the submission of a medical fee dispute for the same services. 28 Texas Administrative Code §133.307(f) (3) (C) provides for dismissal of a medical fee dispute if the request for the medical fee dispute contains an unresolved extent of injury dispute for the claim.

The Division hereby notifies the requestor that the appropriate process to resolve the issue(s) of extent-of-injury, including disputes or disagreements among the parties over whether the medical services in dispute were related to the compensable injury, may be found in Chapter 410 of the Texas Labor Code, and 28 Texas Administrative Code §141.1.

The Division finds that due to the unresolved extent-of-injury issues, the medical fee dispute on above listed dates of service are not eligible for review until a final decision has been issued in accordance with 28 Texas Administrative Code §133.307.

Dismissal provisions: 28 Texas Administrative Code § 133.307(f) (3) provides that a dismissal is not a final decision by the Texas Department of Insurance, Division of Workers' Compensation. The medical fee dispute may be submitted for review as a new dispute that is subject to the requirements of 28 Texas Administrative Code § 133.307. 28 Texas Administrative Code § 133.307 (c)(1)(B) provides that a request for medical fee dispute resolution may be filed not later than 60 days after a requestor has received the final decision, inclusive of all appeals, on the extent-of-injury dispute.

2. Neither party to the dispute submitted any explanation of benefits to support denial of payment for services rendered on the following dates: June 29, July 17, July 20, August 6, August 7, August 8, August 13, August 14, August 16, August 20, August 23, August 27, August 28, August 29, September 4, September 5, October 3, and October 9, 2012; therefore, the disputed services will be reviewed per the Division's rules and fee guideline.

28 Texas Administrative Code §134.203(a)(5) states "Medicare payment policies" when used in this section, shall mean reimbursement methodologies, models, and values or weights including its coding, billing, and reporting payment policies as set forth in the Centers for Medicare and Medicaid Services (CMS) payment policies specific to Medicare."

Per 28 Texas Administrative Code §134.203(c)(1)(2), "To determine the MAR for professional services, system participants shall apply the Medicare payment policies with minimal modifications.

(1) For service categories of Evaluation & Management, General Medicine, Physical Medicine and Rehabilitation, Radiology, Pathology, Anesthesia, and Surgery when performed in an office setting, the established conversion factor to be applied is \$52.83. For Surgery when performed in a facility setting, the established conversion factor to be applied is \$66.32.

(2) The conversion factors listed in paragraph (1) of this subsection shall be the conversion factors for calendar year 2008. Subsequent year's conversion factors shall be determined by applying the annual percentage adjustment of the Medicare Economic Index (MEI) to the previous year's conversion factors, and shall be effective January 1st of the new calendar year. The following hypothetical example illustrates this annual adjustment activity if the Division had been using this MEI annual percentage adjustment: The 2006 Division conversion factor of \$50.83 (with the exception of surgery) would have been multiplied by the 2007 MEI annual percentage increase of 2.1 percent, resulting in the \$51.90 (with the exception of surgery) Division conversion factor in 2007."

To determine the MAR the following formula is used: (DWC Conversion Factor/Medicare Conversion Factor) X Participating Amount = Maximum Allowable Reimbursement (MAR).

Review of Box 32 on the CMS-1500 the services were rendered in zip code 75104 and 75231; therefore, the Medicare participating amount is based on locality "Dallas, Texas".

The 2012 DWC conversion factor for this service is 54.86.

The 2012 Medicare Conversion Factor is 34.0376.

- On the *Table of Disputed Services*, the requestor listed disputed date of service June 29, 2012 for codes 99212, 97110 and 97530. A review of the submitted billing finds that the requestor did not bill for these services on this date. As a result, no reimbursement is recommended.
- On the *Table of Disputed Services*, the requestor listed disputed dates of service August 27, and September 4, 2012 for code 99212. A review of the submitted billing finds that the requestor did not bill for this service on these dates. As a result, no reimbursement is recommended.

Using the above formula the Division finds the following for codes 99212 and 99213:

Date	Code	Medicare Participating Amount	MAR	Amount Due
July 5, 2012 July 9, 2012 July 10, 2012 July 16, 2012 August 6, 2012 August 13, 2012 August 14, 2012 August 16, 2012 August 20, 2012 August 28, 2012 August 29, 2012 September 5, 2012	99212-25-GP	\$42.89	\$69.13 or less amount. The requestor is seeking \$60.00/ea	\$60.00 X 12 = \$720.00
October 9, 2012	99213-25-GP	\$70.96	\$114.37 or less amount. The requestor is seeking \$109.00/ea	\$109.00

- On the *Table of Disputed Services*, the requestor listed disputed dates of service October 9, 2012 for code 98940. A review of the submitted billing finds that the requestor did not bill for this service on this date. As a result, no reimbursement is recommended.
- On the *Table of Disputed Services*, the requestor billed for physical therapy services, code 97110 and 97530.

CMS published Medical Learning Network (MLN) Matters, effective January 1, 2011 which states in part "Many therapy services are time-based codes, i.e., multiple units may be billed for a single procedure. The Centers for Medicare & Medicaid Services (CMS) is applying a MPPR to the practice expense payment when more than one unit or procedure is provided to the same patient on the same day, i.e., the MPPR applies to multiple units as well as multiple procedures. Full payment is made for the unit or procedure with the highest PE payment. For subsequent units and procedures, furnished to the same patient on the same day, full payment is made for work and malpractice and 80 percent payment for the PE for services furnished in office settings and other non-institutional settings and at 75 percent payment for the PE services furnished in institutional settings." The multiple procedure rule discounting applies to the disputed service coded 97110 and 97530.

Using the above formula and multiple procedure rule discounting policy for physical therapy services, the Division finds following:

Date	Code	Medicare Participating Amount	MAR	Amount Due
July 5, 2012 July 9, 2012 July 10, 2012 July 16, 2012 July 17, 2012 August 6, 2012 August 7, 2012 August 13, 2012 August 14, 2012 August 16, 2012 August 20, 2012 August 27, 2012 August 28, 2012 August 29, 2012 September 4, 2012 September 5, 2012	97110-59-GP (X5)	\$30.97	\$49.92/ea X 5 = \$225.05	\$225.05 X 16 = \$3,600.80
July 11, 2012	97110-59-GP (X3)	\$30.97	\$49.92/ea X 3 = \$135.03	\$135.03
July 5, 2012 July 9, 2012 July 10, 2012 July 11, 2012 July 16, 2012 July 17, 2012 August 6, 2012 August 7, 2012 August 13, 2012 August 14, 2012 August 16, 2012 August 20, 2012 August 27, 2012 August 28, 2012 August 29, 2012 September 4, 2012 September 5, 2012	97530-59-GP (X3)	\$34.09	\$54.94/ea or less, the requestor is seeking \$50.00/ea X 3 = \$150.00	\$150.00 X 17 = \$2,550.00

- On the *Table of Disputed Services*, the requestor billed for codes 72148 and 72146. Using the above formula the Division finds the following:

Date	Code	Medicare Participating Amount	MAR	Amount Due
July 20, 2012	72148	\$438.19	\$706.25	\$706.25

July 20, 2012	72146	\$444.04	\$715.68	\$715.68
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- On the *Table of Disputed Services*, the requestor billed for a Designated Doctor's examination, codes 99456 (X3), rendered on October 3, 2012.

28 Texas Administrative Code §134.204(i)(1)(A) states "The following shall apply to Designated Doctor Examinations. (1) Designated Doctors shall perform examinations in accordance with Labor Code §§408.004, 408.0041 and 408.151 and Division rules, and shall be billed and reimbursed as follows: (A) Impairment caused by the compensable injury shall be billed and reimbursed in accordance with subsection (j) of this section, and the use of the additional modifier "W5" is the first modifier to be applied when performed by a designated doctor"

A review of the submitted medical billing finds that the requestor did not append modifier "W5" to CPT code 99456.

28 Texas Administrative Code §134.204(j)(3)(C) states "The following applies for billing and reimbursement of an MMI evaluation. An examining doctor, other than the treating doctor, shall bill using CPT Code 99456. Reimbursement shall be \$350."

The requestor billed CPT code 99456 because the examination was performed by a doctor other than the treating doctor.

28 Texas Administrative Code §134.204(j)(4)(C)(iii) states "If the examining doctor performs the MMI examination and the IR testing of the musculoskeletal body area(s), the examining doctor shall bill using the appropriate MMI CPT code with modifier "WP." Reimbursement shall be 100 percent of the total MAR."

28 Texas Administrative Code §134.204(n)(18) states "The following Division Modifiers shall be used by HCPs billing professional medical services for correct coding, reporting, billing, and reimbursement of the procedure codes. The "WP" modifier is defined as "Whole Procedure--This modifier shall be added to the CPT code when both the professional and technical components of a procedure are performed by a single HCP."

A review of the requestor's billing finds that the "WP" modifier was not appended to CPT code 99456.

The Division finds that the Designated Doctor did not bill for the MMI/IR evaluation in accordance with 28 Texas Administrative Code §134.204; therefore, reimbursement is not recommended.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$8,536.76.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$8,536.76 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

_____	_____	10/27/2015
Signature	Medical Fee Dispute Resolution Officer	Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, 37 *Texas Register* 3833, applicable to disputes filed on or after June 1, 2012.

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.